

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

NOTICE OF
WAGE & HOUR LAWSUIT

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Perez, et al. v. Isabella Geriatric Center, Inc.

Docket No: CIV. NO. 13-CV-7453 (RA)(RLE)

**TO: ALL INDIVIDUALS WHO CURRENTLY WORK, OR FORMERLY WORKED, AS A
CERTIFIED NURSING ASSISTANT (“CNA”) FOR ISABELLA GERIATRIC CENTER, INC.,
SINCE OCTOBER 22, 2007.**

- This notice has been authorized by United States Magistrate Judge Ronald L. Ellis and may affect your legal rights. This is not a solicitation from a lawyer. Plaintiffs Yudelka E. Perez and Maritza A. Cortes (“Plaintiffs”) were employed by Isabella Geriatric Center, Inc. (“Isabella”) and have brought this lawsuit on behalf of themselves and other current and former individuals to seek payment of allegedly unpaid overtime wages. You may be owed overtime wages if you worked for Isabella at any time from October 22, 2007 through the present.
- Defendant denies any wrongdoing and/or liability and denies that any individual is owed overtime wages under the Federal Fair Labor Standards Act (“FLSA”) or under the New York Labor Law (“NYLL”).
- Receipt of this notice does not indicate an entitlement to recovery. No determination has been made that you are owed any overtime wages, and the Court is not endorsing the merits of this lawsuit or advising you to participate in the lawsuit. You are under no obligation to respond to this notice.

1. WHY DID I GET THIS NOTICE?

The purpose of this notice is to inform you of the existence of this collective action lawsuit, to advise you of how your rights may be affected by this lawsuit, and to instruct you on the procedure for participating in this lawsuit.

2. WHAT IS THIS LAWSUIT ABOUT?

This lawsuit is about:

Whether Isabella violated the FLSA and/or NYLL by failing to record and pay overtime wages in any week to individuals who worked in Isabella as a CNA.

You may have claims under the FLSA that date from October 22, 2010 to the present, and/or claims under the NYLL that date from October 22, 2007 to the present.

Isabella denies that it violated the FLSA and/or NYLL in any way. It contends that these individuals were appropriately paid.

The court has not yet decided who is correct.

3. HOW DO I JOIN THIS LAWSUIT?

If you would like to join this lawsuit, you must sign and promptly return the enclosed “Consent to Join Lawsuit” Form by [60 days from mailing date]. An addressed and postage-paid envelope is enclosed for your convenience. Should the enclosed envelope be lost or misplaced, the Consent to Join Lawsuit Form must be sent to:

Harrison, Harrison & Associates, Ltd.
RE: ISABELLA WAGE AND HOUR LITIGATION
110 Highway 35, 2nd Floor
Red Bank, NJ 07701

You may also 1) file the Consent to Join Form by completing it online at [INSERT WEBSITE], 2) email the completed Consent to Join Form to Plaintiffs’ attorneys at [nycotlaw@gmail.com], or 3) fax it to (718) 799-9171.

YOU MUST FILE A CONSENT TO JOIN FORM TO JOIN THIS LAWSUIT.

If you do not sign and return the Consent to Join Form by [60 days from mailing date] you may not be able to participate in the FLSA portion of this lawsuit.

4. WHAT HAPPENS IF I JOIN THE LAWSUIT?

If you choose to join this lawsuit, you will be bound by any ruling, settlement, or judgment. You will also share in any proceeds from a settlement or judgment. While this lawsuit is pending, you may be asked to provide oral or written discovery with respect to your claim. To join this lawsuit, you must sign and promptly return the enclosed “Consent to Join Lawsuit” Form by [60 days from mailing date].

5. WHAT HAPPENS IF I DO NOTHING OR WANT TO STAY OUT OF THE LAWSUIT?

If you choose not to join this lawsuit, you do not need to do anything. If you do not join the lawsuit, you will not be part of the case in any way and therefore will not be entitled to share in any amounts recovered by Plaintiffs if they are successful in obtaining an award from a trial or settlement of this lawsuit. You will also not be affected by any ruling, judgment or settlement rendered in this lawsuit. You have the right to retain your own counsel to represent you and to file an independent lawsuit. However, if you hire your own attorney, you may be responsible for paying that attorney. You should also be aware that your federal wage and hour claims are limited by either a two or three year statute of limitations. Delay in joining this action or proceeding separately may result in some or all of your potential claims expiring as a matter of law.

6. WHAT ARE THE PLAINTIFFS SEEKING?

Plaintiffs are seeking to recover unpaid overtime wages. Plaintiffs are also seeking liquidated damages, attorneys’ fees and costs.

7. WILL I HAVE A LAWYER IN THIS CASE?

If you choose to join this lawsuit, you have the right to be represented by counsel of your own choosing. If you retain your own counsel, you must make your own financial arrangements with your attorney.

If you do not appoint your own attorney, you will be represented by the Plaintiffs' attorneys who are: David Harrison, Esq. and other lawyers at Harrison, Harrison & Associates, Ltd., located at 225 Broadway, Suite 630, New York, NY 10007, telephone (888) 239-4410.

If you are represented by Harrison, Harrison & Associates, Ltd., any attorney fees will be paid out of any recovery that is obtained. If there is a recovery, the fees may be part of a settlement obtained or money judgment entered in favor of Plaintiffs, or may be ordered by the court to be paid by Isabella, or may be a combination of both. If you are represented by Harrison, Harrison & Associates, Ltd., and Plaintiffs do not recover anything in this lawsuit, you will not have to pay any attorneys' fees.

The attorneys for Isabella are Mr. John Ho, Esq. and Ms. Barbara Cusumano, Esq. from Bond, Schoeneck & King, PLLC, 330 Madison Avenue, 39th Floor, New York, NY 10017.

Do not contact Isabella's lawyers for questions about this lawsuit.

8. CAN ISABELLA RETALIATE AGAINST ME FOR JOINING THIS LAWSUIT?

The FLSA and NYLL prohibit Isabella from firing, disciplining, or in any manner discriminating or retaliating against you because you "opt-in" to this case, or have in any other way exercised your rights under the FLSA or NYLL.

9. WHAT IF I STILL HAVE QUESTIONS?

If you still have questions about this lawsuit, or would like further information about this notice or the deadline for filing a Consent to Join Lawsuit form, you can contact David Harrison, Esq. of Harrison, Harrison & Associates, Ltd., at (888) 239-4410.

You may also email any questions to Plaintiffs' attorney at nycotlaw@gmail.com

PLEASE DO NOT CONTACT THE CLERK OF THE COURT WITH QUESTIONS INVOLVING THIS LAWSUIT

Date of Mailing: _____ 2014

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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CONSENT TO JOIN FORM

Docket No: CIV. NO. 13-CV-7453 (RA)(RLE)

I, the undersigned, whom Defendant employed as a Certified Nursing Assistant at any time between October 22, 2007 and the present, hereby consent to be a party plaintiff in the above captioned lawsuit (or, if due to unforeseen procedural matters, any subsequent related suit), which is an action to recover overtime compensation not paid pursuant to the requirements of the Fair Labor Standards Act ("FLSA").

By my signature below, I designate the Named Plaintiffs and their attorneys as my representatives to make decisions on my behalf concerning the litigation, the manner and method of conducting this litigation, and decisions regarding settlement, attorney's fees and costs and all other matters pertaining to this lawsuit. I understand that while I have the right to choose other counsel and to pursue my claims on my own behalf, I choose to be represented by Class Counsel from Harrison, Harrison & Associates, Ltd, and other attorneys with whom they may associate.

By signing below I, _____ (Print Name), consent to participate in this lawsuit.

Signature: _____ Date: _____

Address: _____ City/State/Zip: _____

Phone Number: (_____) _____ E-mail: _____ @ _____

THE LAST DAY TO FILE THIS CONSENT TO JOIN FORM IS _____ 2014. CONSENT FORMS FILED AFTER _____ 2014 WILL BE REJECTED UNLESS GOOD CAUSE IS SHOWN FOR THE DELAY. IF YOU WISH TO SEEK RECOVERY OF OVERTIME UNDER THE FEDERAL FLSA, YOU MUST MAIL THE ENCLOSED CONSENT TO JOIN FORM POSTMARKED BY _____ 2014 TO:

**Harrison, Harrison & Associates, Ltd.
RE: ISABELLA WAGE AND HOUR LITIGATION
110 Highway 35, 2nd Floor
Red Bank, NJ 07701**

ALTERNATIVELY, YOU CAN FAX or EMAIL THE CONSENT TO JOIN FORM BY _____ 2014 TO: (718) 799-9171 (Fax) OR nycotlaw@gmail.com (EMAIL) OR YOU CAN COMPLETE IT ONLINE AT {INSERT WEBSITE}

If you fail to mail, fax, or email a signed Consent form (or complete it online) by _____, 2014, you may not be eligible to participate in FLSA portion of this lawsuit.

**QUESTIONS? CONTACT:
David Harrison, Esq. at (888) 239-4410**